IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

WP(C).No. 18778 of 2007(I)

PETITIONER:

DR.RAJAN VARGHESE, READER AND HEAD OF
THE DEPARTMENT OF COMMERCE AND TOURISM,
MAR IVANIOUS COLLEGE, THIRUVANANTHAPURAM.

BY ADV. SRI.N.NANDAKUMARA MENON
SRI.P.K.MANOJKUMAR

RESPONDENTS:

1. THE UNIVERSITY OF KERALA REPRESENTED
BY ITS REGISTRAR, UNIVERSITY BUILDINGS,
PALAYAM, THIRUVANANTHAPURAM.

2. THE MANAGEMENT OF MALANKARA SYRIAN
CATHOLIC COLLEGES, REPRESENTED BY ITS SECRETARY,
ARCH BISHOP HOUSE, PATTOM, THIRUVANANTHAPURAM-4.

3. REV.FR.M.G.MATHEW, THE PRINCIPAL IN
CHARGE, MAR IVANIOUS COLLEGE, NALANCHIRA P.O.,
THIRUVANANTHAPURAM.

4. THE DIRECTOR OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, THIRUVANANTHAPURAM.

5. THE MAR IVANIOUS COLLEGE,
THIRUVANANTHAPURAM, REPRESENTED BY THE PRINCIPAL
IN CHARGE, NALANCHIRA, THIRUVANANTHAPRUAM.

Addl.R6. THE VICE CHANCELLOR,
UNIVERSITY OF KERALA
(Addl.respondent no.6 impleaded as per order dated 12.7.2007)

BY ADV. SRI.M.RAJAGOPALAN NAIR, SC, KERALA UTY.
SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW
SRI.SANTHOSH MATHEW,(SC)
GOVERNMENT PLEADER SMT.M.R.SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: The photostat copy of the seniority list of the teaching staff of the Malankara Syrian Catholic Colleges as on 1.6.2003.

Ext.P2: The photostat copy of the order of appointment No.MSC 25/07/T.S. Dated 4.6.2007 issued by the Secretary, Management of Malankara Syrian Catholic Colleges, Trivandrum.

Ext.P3: The photostat copy of the Government order No.23943/192-06 H.Edn. Dated 16.10.2006 issued by the Government.

Ext.P4: The photostat copy of the representation dated 30.5.2007 submitted by the petitioner to the Vice Chancellor of the University.

RESPONDENT'S EXHIBITS:

Ext.R2(1): A copy of the Norms and procedure for selection of teachers for appointment in Private Affiliated Colleges issued by the University of Kerala. A copy of the norms and procedure for selection of teachers for appointment in Private Affiliated Colleges issued by the University of Kerala on 1.11.96.

Ext.R2(2): A copy of the said judgment in Rt. Rev.Dr.Jerome M.Fernandez Vs. University of Kerala and others (OP 982/77A)

Ext.R2(2A): A copy of the appointment order dated 30.5.2007.

Ext.R2(3): A copy of the judgment in Appeal No.16/00 filed by the writ petitioner.

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P.A. To Judge

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A.K.BASHEER, J.

W.P.(C)No.18778 OF 2007

Dated this the 12th day of July, 2007

JUDGMENT

In view of the submissions made by learned counsel for the parties at the Bar, particularly the request made by learned counsel for the petitioner that petitioner will be satisfied, if a direction is issued to the Vice Chancellor of the first respondent/University to take a decision on Ext.P4 representation, I am satisfied that this writ petition can be disposed of without referring to the rival contentions of the parties in detail.

2. Petitioner who is stated to be working as Reader in the Department of Commerce and Tourism in Mar Ivanios College has impugned Ext.P2 order of appointment of respondent no.3 as Drawing and Disbursing Officer. It is contended by him that so long as the appointment of respondent no.3 as Principal of the College has not been approved by the University, he cannot be allowed to function as Drawing and Disbursing Officer.

3. However it is contended on behalf of respondents 2, 3 and 5 that the contentions raised by the petitioner are wholly untenable. It is submitted by the learned counsel that their lordships of the Supreme Court in **Secretary, Malankara Syrian Catholic College v. T. Jose (2007 (1) SCC 386)** had held that 5th respondent college is a minority institution. The said decision of their lordships was followed by the Tribunal in Ext.R2(3) order passed by the Kerala University Appellate Tribunal. The above appeal was filed by the petitioner. The contention of these respondents is that since the institution has been accorded minority status, it is the right of the management to choose a competent teacher of its choice as the Drawing and Disbursing Officer.

4. Anyhow, I do not deem it necessary to deal with the various contentions raised by the parties, in view of the limited prayer made by learned counsel for the petitioner at the Bar. He prays that the Vice Chancellor may be directed to take a decision on Ext.P4.

5. The writ petition is disposed of with a direction to the Vice Chancellor of the Kerala University, who is impleaded as additional respondent no.6, to take a decision on Ext.P4 strictly on its merit and in accordance with law as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. Needless to mention that respondent no.6 shall ensure that the petitioner and respondents 2, 3 and 5 are afforded sufficient opportunity to be heard before taking a decision in the matter. It will be open to respondents 2, 3 and 5 to draw the attention of the Vice Chancellor to the judgment of the Supreme Court referred to above. Petitioner shall produce a copy of the writ petition along with a certified copy of the judgment before the respondent no.6 for compliance.

Writ petition is disposed of as above.

A.K.BASHEER, JUDGE

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